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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,617	07/28/2003	Paul Edward Chek		5839
7590	06/01/2004		EXAMINER	
Paul E. Chek # 467 4360 E. Main St. Ventura, CA 93003				ADDIE, RAYMOND W
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/628,617	CHEK, PAUL EDWARD
	<b>Examiner</b> Raymond W. Addie	<b>Art Unit</b> 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 5, 8, 10 is/are rejected.
- 7) Claim(s) 2-9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/28/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Specification***

1. The abstract of the disclosure is objected to because the phrase "The present invention is a vibrating tamping bull-float. This is used for"; should be --A vibrating, tamping, bull-float is used for—to avoid repetitive statements. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

2. Claims 1, 2 are objected to because of the following informalities: lines 11-16; the phrase "made and arranged to enable a user to move the bull-float back and forth on the concrete so as to agitate the top surface of the concrete in a tamping manner to level uneven concrete elevations of the top surface of the concrete, integrate cement adhesives into the top surface of the concrete and cause cement cream to migrate to the top surface while the coarse aggregate is being pushed downward into the concrete" should be "capable of being moved forward and backward by a user--. In order to avoid repeating what is already put forth in the preamble of the claim. See lines 2-3 of Claim 1.  
  
Claim 1, Ins. 4-5, the phrase "said pushing handle", should be --a pushing handle--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Saffo, Sr. # 6,379,080.

Saffo, Sr. discloses a vibrating, tamping bull-float (10) for agitation, leveling and smoothing a top surface of freshly poured concrete. Said bull-float comprising:

A stable float body (12) having an elongate bottom surface, attached to;

A segmented, pushing handle (22/810), via connecting strip (16).

A vibrating float body (14) having a horizontally extending bottom surface. Said vibrating float body (14) being pivotably attached to said stable float body (12) at a primary axis of flexure extending along a primary longitudinal edge thereof and disposed parallel thereto.

An actuator mechanism (26) made and arranged to vibrate said vibrating float body about the axis of flexure and thus tamp the cement.

See col. 5.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saffo, Sr.

'080 in view of Lindley # 5,244,305.

Saffo, Sr. discloses the bull-float is vibrated by any known means and is powered by a DC battery. See col. 5, Ins. 47-52, but does not disclose what the vibration means comprises. However, Lindley teaches concrete bull-floats are advantageously provided with either electric or gas powered motors having: A drive shaft (17b), a mounting bracket (14c) attaching said electric motor to said vibrating float body (20); an eccentric mass (17a) affixed to the drive shaft of the motor, made and arranged to transmit a desired amplitude of vibration to said vibrating float body in response to rotation of said drive shaft. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the bull float of Saffo, Sr., with an electric motor assembly, as taught by Lindley, in order to provide a self contained vibration generator. See col. 2.

***Allowable Subject Matter***

5. Claims 2-4, 6, 7, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shaffer # 2,178,899 discloses a trowel having pivotable blades. Freeman # 2,834,199. Rouillard # 4,861,188 discloses an apparatus for leveling concrete having a stable plate and a vibrating plate. Jarvis # 5,393,168 discloses an adjustable bull float. Allen # 5,533,831 discloses a screed having pivotable end portions for avoiding obstacles. Emerson et al. # 6,019,544 discloses an edge compacting device for screeds. Prescott # 6,695,531 discloses a concrete float.

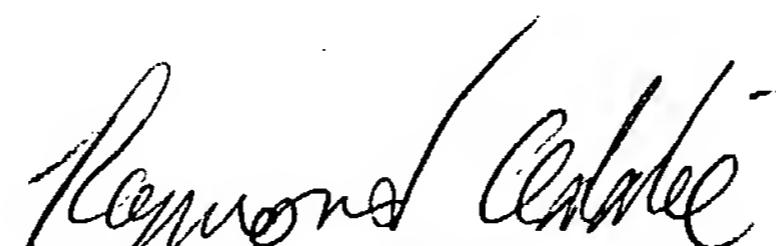
***Note to Applicant***

7. It appears from the Oath that Applicant is representing himself, aka (a Pro Se), being without the assistance of a registered Patent Attorney or Agent. Hence, Applicant is invited to contact the Examiner of Record, with questions regarding the decisions cited above, or to request advice on how to respond to this First Office Action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Raymond Addie**  
Patent Examiner  
Group 3600